



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB3642

Introduced 02/24/05, by Rep. David Reis

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/416  
820 ILCS 305/4d

Amends the Illinois Insurance Code and the Workers' Compensation Act. Provides that the Illinois Workers' Compensation Commission Operations Fund Surcharge and the Illinois Workers' Compensation Commission Operations Fund Fee shall not be imposed on and after July 1, 2005, and that this does not affect any powers and duties with regard to any payments due before July 1, 2005 and any delinquencies, penalties, and overpayments with respect to those payments. Effective July 1, 2005.

LRB094 08847 WGH 39066 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning workers' compensation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 416 as follows:

6 (215 ILCS 5/416)

7 Sec. 416. Illinois Workers' Compensation Commission  
8 Operations Fund Surcharge.

9 (a) As of July 30, 2004 (the effective date of Public Act  
10 93-840) ~~this amendatory Act of 2004~~, every company licensed or  
11 authorized by the Illinois Department of Insurance and insuring  
12 employers' liabilities arising under the Workers' Compensation  
13 Act or the Workers' Occupational Diseases Act shall remit to  
14 the Director a surcharge based upon the annual direct written  
15 premium, as reported under Section 136 of this Act, of the  
16 company in the manner provided in this Section. Such proceeds  
17 shall be deposited into the Illinois Workers' Compensation  
18 Commission Operations Fund as established in the Workers'  
19 Compensation Act. If a company survives or was formed by a  
20 merger, consolidation, reorganization, or reincorporation, the  
21 direct written premiums of all companies party to the merger,  
22 consolidation, reorganization, or reincorporation shall, for  
23 purposes of determining the amount of the fee imposed by this  
24 Section, be regarded as those of the surviving or new company.

25 (b) (1) Except as provided in subsection (b) (2) of this  
26 Section, beginning on July 30, 2004 (the effective date of  
27 Public Act 93-840) through June 30, 2005 ~~this amendatory Act of~~  
28 ~~2004 and on July 1 of each year thereafter~~, the Director shall  
29 charge an annual Illinois Workers' Compensation Commission  
30 Operations Fund Surcharge from every company subject to  
31 subsection (a) of this Section equal to 1.01% of its direct  
32 written premium for insuring employers' liabilities arising

1 under the Workers' Compensation Act or Workers' Occupational  
2 Diseases Act as reported in each company's annual statement  
3 filed for the previous year as required by Section 136. The  
4 Illinois Workers' Compensation Commission Operations Fund  
5 Surcharge shall be collected by companies subject to subsection  
6 (a) of this Section as a separately stated surcharge on insured  
7 employers at the rate of 1.01% of direct written premium. The  
8 Illinois Workers' Compensation ~~Industrial~~ Commission  
9 Operations Fund Surcharge shall not be collected by companies  
10 subject to subsection (a) of this Section from any employer  
11 that self-insures its liabilities arising under the Workers'  
12 Compensation Act or Workers' Occupational Diseases Act,  
13 provided that the employer has paid the Illinois Workers'  
14 Compensation ~~Industrial~~ Commission Operations Fund Fee  
15 pursuant to Section 4d of the Workers' Compensation Act. All  
16 sums collected by the Department of Insurance under the  
17 provisions of this Section shall be paid promptly after the  
18 receipt of the same, accompanied by a detailed statement  
19 thereof, into the Illinois Workers' Compensation Commission  
20 Operations Fund in the State treasury.

21 (b) (2) The surcharge due pursuant to Public Act 93-840 ~~this~~  
22 ~~amendatory Act of 2004~~ shall be collected instead of the  
23 surcharge due on July 1, 2004 under Public Act 93-32. Payment  
24 of the surcharge due under Public Act 93-840 ~~this amendatory~~  
25 ~~Act of 2004~~ shall discharge the employer's obligations due on  
26 July 1, 2004.

27 (c) In addition to the authority specifically granted under  
28 Article XXV of this Code, the Director shall have such  
29 authority to adopt rules or establish forms as may be  
30 reasonably necessary for purposes of enforcing this Section.  
31 The Director shall also have authority to defer, waive, or  
32 abate the surcharge or any penalties imposed by this Section if  
33 in the Director's opinion the company's solvency and ability to  
34 meet its insured obligations would be immediately threatened by  
35 payment of the surcharge due.

36 (d) When a company fails to pay the full amount of any

1 annual Illinois Workers' Compensation Commission Operations  
2 Fund Surcharge of \$100 or more due under this Section, there  
3 shall be added to the amount due as a penalty the greater of  
4 \$1,000 or an amount equal to 5% of the deficiency for each  
5 month or part of a month that the deficiency remains unpaid.

6 (e) The Department of Insurance may enforce the collection  
7 of any delinquent payment, penalty, or portion thereof by legal  
8 action or in any other manner by which the collection of debts  
9 due the State of Illinois may be enforced under the laws of  
10 this State.

11 (f) Whenever it appears to the satisfaction of the Director  
12 that a company has paid pursuant to this Act an Illinois  
13 Workers' Compensation Commission Operations Fund Surcharge in  
14 an amount in excess of the amount legally collectable from the  
15 company, the Director shall issue a credit memorandum for an  
16 amount equal to the amount of such overpayment. A credit  
17 memorandum may be applied for the 2-year period from the date  
18 of issuance, against the payment of any amount due during that  
19 period under the surcharge imposed by this Section or, subject  
20 to reasonable rule of the Department of Insurance including  
21 requirement of notification, may be assigned to any other  
22 company subject to regulation under this Act. Any application  
23 of credit memoranda after the period provided for in this  
24 Section is void.

25 (g) Annually, the Governor may direct a transfer of up to  
26 2% of all moneys collected under this Section to the Insurance  
27 Financial Regulation Fund.

28 (h) Notwithstanding any other provision of this Section,  
29 the Illinois Workers' Compensation Commission Operations Fund  
30 Surcharge shall not be imposed on and after July 1, 2005. This  
31 subsection (h) does not affect the powers and duties of the  
32 Director under this Section with regard to payments due under  
33 subsection (b) and any delinquencies, penalties, and  
34 overpayments with respect to payments due under subsection (b).

35 (Source: P.A. 93-32, eff. 6-20-03; 93-721, eff. 1-1-05; 93-840,  
36 eff. 7-30-04; revised 12-29-04.)

1 Section 10. The Workers' Compensation Act is amended by  
2 changing Section 4d as follows:

3 (820 ILCS 305/4d)

4 Sec. 4d. Illinois Workers' Compensation Commission  
5 Operations Fund Fee.

6 (a) As of the effective date of this amendatory Act of the  
7 93rd General Assembly, each employer that self-insures its  
8 liabilities arising under this Act or Workers' Occupational  
9 Diseases Act shall pay a fee measured by the annual actual  
10 wages paid in this State of such an employer in the manner  
11 provided in this Section. Such proceeds shall be deposited in  
12 the Illinois Workers' Compensation Commission Operations Fund.  
13 If an employer survives or was formed by a merger,  
14 consolidation, reorganization, or reincorporation, the actual  
15 wages paid in this State of all employers party to the merger,  
16 consolidation, reorganization, or reincorporation shall, for  
17 purposes of determining the amount of the fee imposed by this  
18 Section, be regarded as those of the surviving or new employer.

19 (b) Beginning on July 30, 2004 (the effective date of  
20 Public Act 93-840) through June 30, 2005 ~~this amendatory Act of~~  
21 ~~2004 and on July 1 of each year thereafter~~, the Chairman shall  
22 charge and collect an annual Illinois Workers' Compensation  
23 Commission Operations Fund Fee from every employer subject to  
24 subsection (a) of this Section equal to 0.0075% of its annual  
25 actual wages paid in this State as reported in each employer's  
26 annual self-insurance renewal filed for the previous year as  
27 required by Section 4 of this Act and Section 4 of the Workers'  
28 Occupational Diseases Act. All sums collected by the Commission  
29 under the provisions of this Section shall be paid promptly  
30 after the receipt of the same, accompanied by a detailed  
31 statement thereof, into the Illinois Workers' Compensation  
32 Commission Operations Fund. The fee due pursuant to Public Act  
33 93-840 ~~this amendatory Act of 2004~~ shall be collected instead  
34 of the fee due on July 1, 2004 under Public Act 93-32. Payment

1 of the fee due under Public Act 93-840 ~~this amendatory Act of~~  
2 ~~2004~~ shall discharge the employer's obligations due on July 1,  
3 2004.

4 (c) In addition to the authority specifically granted under  
5 Section 16, the Chairman shall have such authority to adopt  
6 rules or establish forms as may be reasonably necessary for  
7 purposes of enforcing this Section. The Commission shall have  
8 authority to defer, waive, or abate the fee or any penalties  
9 imposed by this Section if in the Commission's opinion the  
10 employer's solvency and ability to meet its obligations to pay  
11 workers' compensation benefits would be immediately threatened  
12 by payment of the fee due.

13 (d) When an employer fails to pay the full amount of any  
14 annual Illinois Workers' Compensation Commission Operations  
15 Fund Fee of \$100 or more due under this Section, there shall be  
16 added to the amount due as a penalty the greater of \$1,000 or  
17 an amount equal to 5% of the deficiency for each month or part  
18 of a month that the deficiency remains unpaid.

19 (e) The Commission may enforce the collection of any  
20 delinquent payment, penalty or portion thereof by legal action  
21 or in any other manner by which the collection of debts due the  
22 State of Illinois may be enforced under the laws of this State.

23 (f) Whenever it appears to the satisfaction of the Chairman  
24 that an employer has paid pursuant to this Act an Illinois  
25 Workers' Compensation Commission Operations Fund Fee in an  
26 amount in excess of the amount legally collectable from the  
27 employer, the Chairman shall issue a credit memorandum for an  
28 amount equal to the amount of such overpayment. A credit  
29 memorandum may be applied for the 2-year period from the date  
30 of issuance against the payment of any amount due during that  
31 period under the fee imposed by this Section or, subject to  
32 reasonable rule of the Commission including requirement of  
33 notification, may be assigned to any other employer subject to  
34 regulation under this Act. Any application of credit memoranda  
35 after the period provided for in this Section is void.

36 (g) Notwithstanding any other provision of this Section,

1 the Illinois Workers' Compensation Commission Operations Fund  
2 Fee shall not be imposed on and after July 1, 2005. This  
3 subsection (g) does not affect the powers and duties of the  
4 Chairman under this Section with regard to payments that were  
5 due under subsection (b) through June 30, 2005 and any  
6 delinquencies, penalties, and overpayments with respect to  
7 those payments.

8 (Source: P.A. 93-32, eff. 6-20-03; 93-721, eff. 1-1-05; 93-840,  
9 eff. 7-30-04; revised 10-25-04.)

10 Section 99. Effective date. This Act takes effect July 1,  
11 2005.